

SENATE BILL 1155

By Fowler

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 6 and Title 68, Chapter 11, relative to limiting vicarious liability for the acts or omissions of state-employed interns, residents, and fellows serving in training programs of medical and health science schools owned or operated by the state of Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-6-204, is amended by adding the following new subsection:

(f)(1) No medical or health science faculty member shall be held by reason of such faculty member's supervision of or control over, such faculty member's right to supervise or exercise control over, or such faculty member's relationship with any intern, resident, or fellow in a training program of a medical or health science school owned or operated by the state, to be liable for any act or omission of any such intern, resident, or fellow in the course of such intern's, resident's, or fellow's training program under the legal doctrine of respondeat superior, implied or apparent agency, ostensible agency, or any other theory of vicarious liability.

(2) No teaching practice shall be held by reason of its relationship with any medical or health science faculty member to be liable for any act or omission of any intern, resident, or fellow in a training program of a medical and health science school

owned or operated by the state in the course of such intern's, resident's, or fellow's training program under the legal doctrine of respondeat superior, implied or apparent agency, ostensible agency, or any other theory of vicarious liability.

(3) Nothing in this subsection is intended, nor shall it be construed, to absolve from or in any way limit the liability of any such medical or health science faculty member for such faculty member's own acts or omissions, nor to absolve from or in any way limit the liability of any such teaching practice for the acts or omissions of its employees. This subsection affects only the vicarious liability of such faculty member or practice for the acts or omissions of interns, residents, and fellows.

(4) As used in this subsection:

“Intern,” “resident,” or “fellow” means any person receiving instruction through and acting within the scope of a training program of a medical or health science school owned or operated by the state and who, in such capacity, receives compensation payable by the state and is entitled to individual immunity as an employee of the state pursuant to § 9-8-307(h).

“Medical or health science faculty member” means any person having a current, valid letter of appointment to the faculty of a medical or health science school owned or operated by the state, including but not limited to, any person licensed to practice medicine, osteopathy, clinical psychology, pharmacy, dentistry, nursing, or any other health profession, whether volunteer or paid, and whether full-time or part-time.

“Teaching practice” means any professional group practice, sole proprietorship, partnership, corporation, limited liability company, or other public or private entity that employs a medical or health science faculty member or through which a medical or health sciences faculty member practices.

SECTION 2. Tennessee Code Annotated, Section 68-11-205, is amended by redesignating subsection (c) thereof as subsection (d), and adding the following new subsection (c):

(c)(1) No teaching institution shall be held by reason of its supervision of or control over, its right to supervise or exercise control over, or its relationship with any intern, resident, or fellow in a training program of a medical and health science school owned or operated by the state, to be liable for any act or omission of any such intern, resident, or fellow in the course of such intern's, resident's, or fellow's training program under the legal doctrine of respondeat superior, implied or apparent agency, ostensible agency, or any other theory of vicarious liability.

(2) Nothing in this subsection is intended, nor shall it be construed, to absolve from or in any way limit any cause of action that may lie against any such teaching institution arising out of any act or omission of such institution other than in connection with its control over or relationship with such intern, resident, or fellow.

SECTION 3. Tennessee Code Annotated, Section 68-11-205, is further amended by adding the following terms definitions to existing subsection (c), redesignated as subsection (d) by Section 2 of this act:

( ) "Intern," "resident," or "fellow" means any person receiving instruction through and acting within the scope of a training program of a medical or health science school owned or operated by the state and who, in such capacity, receives compensation payable by the state and is entitled to individual immunity as an employee of the state pursuant to § 9-8-307(h).

( ) "Teaching institution" means an ambulatory surgical treatment center, hospital, mental health hospital, or rehabilitation facility, operating within the scope of an affiliation agreement with any medical or health science school owned or operated by the state, and shall further include, but not be limited to, any sole proprietorship, partnership,

corporation, limited liability company, or other public or private entity that owns, controls, or is affiliated with any such institution.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.